

## REMARKS/ARGUMENTS

The rejections presented in the Office Action dated October 10, 2006 (hereinafter Office Action) have been considered. Claims 1-39 remain pending in the application. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Claims 1-4, 20, 23, 27, 29, 31, 32, 34 and 37 stand rejected under 35 U.S.C. §102(e) as being anticipated by, or in the alternative, under 35 U.S.C. §103(a) as obvious over U.S. Publication No. 2004/0034484 by Solomita et al. (hereinafter “*Solomita*”). Claims 1-3, 20, 23, 29, 31, 32, 34 and 37 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Publication No. 2003/0036822 by Davis et al. (hereinafter “*Davis*”). Claims 1-4, 20, 23, 27-29, 31, 32, 34 and 37 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,437,692 to Petite et al. (hereinafter “*Petite*”). The Applicants respectfully traverse the rejections, but in order to facilitate prosecution of the application and in a *bona fide* attempt to advance the application to allowance, the Applicants present this response with amendment to clarify particular aspects of the claimed invention.

Independent Claims 1, 20, 31, 32, 34 and 37 have been amended to at least set forth that a gateway is located external to a plurality of controlled buildings and wirelessly coupled to at least one HVAC controller within each of the controlled buildings. At least one of the HVAC controllers is configured to bind to a particular gateway and to respond to input signals from the particular gateway as a function of the binding. These amendments are fully supported in the Specification and Claims as originally filed (e.g., Specification, p. 15, lines 21-23). The Applicants believe that none of *Solomita*, *Davis*, or *Petite* anticipates Claims 1, 20, 31, 32, 34 and 37, as originally filed and particularly as amended.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131, quoting *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in

the patent claim; *i.e.* every element of the claimed invention must be literally present, arranged as in the claim.” MPEP § 2131, quoting *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The Applicant submits that none of *Solomita*, *Davis*, or *Petite* teaches every element of independent Claims 1, 20, 31, 32, 34 and 37, and therefore fails to anticipate Claims 1, 20, 31, 32, 34 and 37.

*Solomita* relates to an “energy management system . . . designed as a network of devices installed in the home or small office to efficiently make use of heating, ventilation, and air-conditioning (“HVAC”) units” using “module devices installed on the network [that] may communicate and transmit energy usage data to a central server, for example, located at the utility company.” (*Solomita*, Abstract). However, *Solomita* at least fails to expressly or inherently show a gateway located external to a plurality of controlled buildings and communicatively coupled to at least one HVAC controller within each of the controlled buildings. In *Solomita*, a gateway 10 is located within each controlled building, and the gateway connects directly to a utility by way of a LAN (e.g., *Solomita*, 0037 - “a home or office 5 is shown containing a gateway 10;” *Solomita*, 0044 - “gateway 10 can control and monitor, through the third-party LAN adapter module 65, the other network 80 and appliances and devices 85”). Thus *Solomita* fails to expressly or inherently teach all of the limitations of Claims 1, 20, 31, 32, 34 and 37.

Applicants further submit *Solomita* that fails to render Claims 1, 20, 31, 32, 34 and 37 obvious. In order for a single reference to render a claim obvious under 35 U.S.C. § 103, there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference, there must be a reasonable expectation of success, and the prior art references must teach or suggest all of the claim limitations. Applicants submit that, for the reasons given above, *Solomita* fails to teach or suggest a gateway located external to a plurality of controlled buildings and communicatively coupled to at least one HVAC controller within each of the controlled buildings. Thus Applicants respectfully submit a *prima facie* case of obviousness has not been established with respect to Claims 1, 20, 31, 32, 34 and 37.

*Davis* relates to an “intelligent network demand control system [that] employs a transceiver network with a plurality transceivers coupled to meters and appliances residing at a plurality of customer premises.” (*Davis*, Abstract). *Davis* describes a “group of customer premises 116, 118 and 120, each having a meter (not shown) coupled to a transceiver” and which provide demand data that “is relayed by the transceiver station 134 to the transceiver station 138 residing on tower 140 via the RF signal 142.” (*Davis*, 0053). However, as described here and elsewhere in *Davis*, the transceiver stations of *Davis* act as relays and not as gateways, as the term is generally known in the art. A relay merely repeats information, whereas a gateway is generally interfaces two or more different networks. Thus, the transceiver stations of *Davis* are different than a gateway as is commonly known in the art. Further, *Davis* does not expressly or inherently teach an HVAC controller configured and arranged to bind to a particular gateway and to respond to input signals from the particular gateway as a function of the binding. Thus *Davis* fails to expressly or inherently teach all of the limitations of Claims 1, 20, 31, 32, 34 and 37.

*Petite* relates to a “system for monitoring a variety of environmental and/or other conditions within a defined remotely located region.” (*Petite*, Abstract). *Petite* describes “sensor/actuators...each integrated with a transceiver,” where the transceivers preferably “transmit a relatively low power RF signal.” (*Petite*, col. 5, lines 50-52). *Petite* further describes a local gateway that is “configured and disposed to receive remote data transmissions from the various stand-alone transceivers ...or integrated transceivers ... [and] analyze the transmissions received, convert the transmissions into TCP/IP format and further communicate the remote data signal transmissions via WAN 230.” (*Petite*, col. 6, lines 15-23). Thus, *Petite* describes gateways that are connected to wireless sensor/actuators that use low power transmission within a single system (e.g., systems 1020, 1030, 1040 in FIG. 10 of *Petite*), but fails to expressly or inherently show a gateway located external to a plurality of controlled buildings and communicatively coupled to at least one HVAC controller within each of the controlled buildings. Further, *Petite* does not expressly or inherently teach an HVAC controller configured and arranged to bind to a particular gateway and to respond to input signals from the particular gateway as a function of the

binding. Thus *Petite* fails to expressly or inherently teach all of the limitations of Claims 1, 20, 31, 32, 34 and 37.

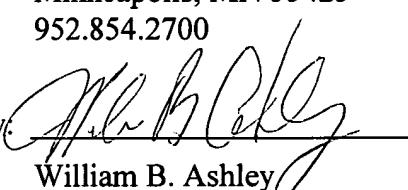
Dependent Claims 2-4 depend from independent Claim 1, and dependent Claims 23 and 27-29 depend from independent Claim 20. These dependent claims also stand rejected under 35 U.S.C. §102(e) as being anticipated by at least one of *Solomita*, *Davis*, and *Petite*. While Applicants do not acquiesce with the particular rejections to these dependent claims, including any assertions concerning inherency or the taking of Official Notice, these rejections are now moot in view of the remarks made in connection with independent Claims 1 and 20. These dependent claims include all of the limitations of the base claim and any intervening claims, and recite additional features which further distinguish these claims from *Solomita*, *Davis*, and *Petite*. Therefore, dependent Claims 2-4, 23, and 27-29 are also in condition for allowance

Authorization is given to charge Deposit Account No. 50-3581 (HONY.010PA) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

HOLLINGSWORTH & FUNK, LLC  
8009 34<sup>th</sup> Avenue South, Suite 125  
Minneapolis, MN 55425  
952.854.2700

Date: January 5, 2007

By:   
William B. Ashley  
Reg. No. 51,419